PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)
END920010032US1 (14761)

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	10/042,400	January 9, 2002

on _____ **October 5, 2006** _____

First Named Inventor

Laura J. Poplawski

Signature _____

Art Unit	Examiner
2654	Martin Lerner

Typed or printed
name _____ **John S. Sensny** _____

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
  Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.
  See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
  (Form PTO/SB/96)

☑ attorney or agent of record.
  Registration number _____ **28,757** _____.

☐ attorney or agent acting under 37 CFR 1.34.
  Registration number if acting under 37 CFR 1.34 _____

Signature: John S Sensny

Signature

John S. Sensny

Typed or printed name

(516) 742-4343

Telephone number

October 5, 2006

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☑ *Total of **1** _ forms are submitted.

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John S Sensny (signature)
Signature

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Typed or printed name

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Laura J. Poplawski

Serial No: 10/042,400

Filed: January 9, 2002

For: METHOD AND SYSTEM FOR CONVERTING FILES TO A SPECIFIED MARKUP LANGUAGE

Confirmation No.: 9037

Examiner: Martin Lerner

Art Unit: 2654

Docket: END920010032US1 (14761)

Dated: October 5, 2006

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REASONS FOR PRE-APPEAL BRIEF REQUEST FOR REVIEW
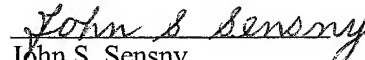
Sir:

These arguments are being submitted in support of Appellants' Pre-Appeal Brief Request for Review.

Claims 1, 3-6, 8-11, 13-15 and 17-19 are pending in this application. In an office Action dated July 7, 2006, the Examiner issued a final rejection of all of these claims over the prior art. Claims 1, 5, 6, 10, 11 and 15 were rejected under 35 U.S.C. 102 as being fully anticipated by U.S. Patent 6,687,873 (Ballantyne, et al.). Claims 3, 4, 8, 9, 13 and 14 were rejected under 35 U.S.C. 103 as being unpatentable over Ballantyne, et al. in view of U.S. Patent 6,292,932 (Baisley, et al.), and Claims 17-19 were rejected under 35 U.S.C. 103 as being unpatentable over Ballantyne, et al. in view of U.S. Patent 5,970,490 (Morganstern). Claims 18 and 19 were also rejected in the Office Action under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement.

CERTIFICATE OF ELECTRONIC FILING

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Dated: <u>October 5, 2006</u>

John S. Sensny
John S. Sensny

In this application, Claims 1, 6 and 11 are independent claims. Claims 3-5 and 17-19 are dependent from Claim 1, Claims 8-10 are dependent from Claim 6, and Claims 13-15 are dependent from Claim 6.

I. Clear Error

The rejection of Claims 1, 5, 6, 10, 11 and 15 under 35 U.S.C. 102 is a clear error because Ballantyne, et al. does not disclose the feature of traversing a legacy file, column by column, and for each of these columns, mapping all of the text in the column to a markup language file.

II. Discussion

A. This Invention

This invention provides methods and systems for converting text legacy files to a specified format, such as an XML format. While there is an important need to convert legacy text files to an XML format, there currently is no generalized, widely applicable and automated procedure to do this. The instant invention provides such a procedure by providing a parser that can be used on its own or as part of a larger system to convert large numbers of legacy files quickly to an XML formal. This, in turn, is done by means of a unique map file having a given set of tags and attributes, by forming a tree structure from this map file, and then using that tree structure to form an XML file from the legacy file.

More specifically, to convert a flat file having legacy data, a map file is defined having tags and attributes. Also, each column heading of the flat file is included in a reference for one of these attributes. A tree structure, having a plurality of nodes, is formed from the map file. All of the nodes of the tree structure are then traversed, node-by-node; and at each node, an attribute of the node is entered into the XML file. Also, each time a reference of one of the attributes matches a column heading of the legacy file, data from that column are entered into the XML file. In this way, all of the legacy data is entered into the XML file, yet the format of that file is controlled in a desired manner through use of the attributes of the map file.

B. Ballantyne, et al.

Ballantyne, et al. relates to reporting XML data from a legacy computer system. With the Ballantyne, et al. procedure, the legacy computer application is modified so that this

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application outputs data in the desired way. This feature of the Ballantyne, et al. process is described in the summary of the Invention given in Ballantyne, et al. In particular, in column 2, lines 62-67, Ballantyne, et al. states that the invention "provides XML output by modifying the underling legacy computer system program applications to report data in XML format instead of transforming the output from the legacy computer system after the data is reported in the format of the legacy computer system" (emphasis added). Thus, the approach taken by Ballantyne, et al is the opposite of the approach taken by the present invention. Consequently, Ballantyne, et al. actually teaches away from the instant invention.

It is noted that in Ballantyne, et al, Figure 4 shows text that is in a flat file, and Figure 5 shows this text in an XML format. Ballantyne, et al, however, does not convert the text of Figure 4 to the text of Figure 5. Instead, as explained in Ballantyne, et al. from column 8, line 46 to column 9, line 64, Figures 4 and 5 represent two different printed outputs of the same basic data. Figure 4 shows a printed output from a COBOL program, and Figure 5 shows a printed output from the modified program shown in Figure 5A. Ballantyne, et al. does not convert the text of Figure 4 to the text of Figure 5, but rather converts the legacy application so that this legacy application outputs data in the format of Figure 5.

C. Differences Between the present invention and Ballantyne, et al.

There is a very important general difference between the present invention and Ballantyne, et al. The present invention is used to convert a complete legacy file to a specified markup language, while Ballantyne, et al. is directed to outputting legacy data in an XML format.

This general difference is reflected in a number of more specific differences between Ballantyne, et al. and the present invention. One such difference is that the present invention employs a procedure to ensure that all the text of the legacy file is retrieved and converted. Ballantyne, et al. does not provide any such assurance, but simply formats a stream of data given to write engine 20. Ballantyne, et al will format that stream, but Ballantyne, et al. does not proactively ensure that a complete legacy text file is converted.

In contrast, the present invention employs a proactive procedure to ensure that all the text from the legacy file is converted. This is done by identifying the column headings of the legacy file, one heading at a time, and each time one column heading is identified, retrieving

all the text from that column and entering all of that retrieved text into the new, markup language file.

Thus, in effect, the critical difference between Ballantyne, et al. and the present invention is that Ballantyne, et al. converts what test is given to the write engine 20, while the present invention proactively searches for and gets all the text that is needed so that the complete file is converted.

In the Office Action, the Examiner argued that "implicitly, nodes of a tree mapping from a legacy file to an XML schema are written 'column by column' and 'node-by-node' 'for each node of said tree,' and 'to ensure that all of the text is retrieved'" (Office Action of July 7, 2006, page 5, lines 18-21). Applicants respectfully disagree. This mode of operation is not implicit in Ballantyne, et al. There is, for example, no disclosure in Ballantyne, et al. that all of the text of a particular file must be converted, and thus there is no teaching in Ballantyne, et al. of any specific procedure for doing such a complete conversion.

D. Differences between Claims 1, 6 and 11 and Ballantyne, et al.

Independent Claims 1, 6 and 11 positively describe the above-discussed aspect of the invention, and how the map file of the present invention is used to accomplish this. Specifically, each of Claims 1, 6 and 11 describes the feature that the map file is used to map text from the legacy file into the defined format in the markup language file, including the step of traversing the legacy file, column by column, and for each of those columns, mapping all of the text in the column to the markup language file.

Further, each of Claims 1, 6 and 11 describes the feature that this mapping is done by traversing the nodes of the formed tree structure, node-by-node, and when one of the references in the attributes of one of the nodes matches the heading of one of the columns of the legacy file, retrieving all of the text from said one of the columns of the legacy file, and entering that retrieved all text into said markup language file. This mapping also includes traversing all of said nodes of said tree to ensure that references are found matching all of the column headings of the legacy file, and thereby to ensure that all of the text from the legacy file is retrieved therefrom and entered into the markup language file.

Significantly, the Court of Appeals for the Federal Circuit emphasizes that a strict identity test must be met in order for a reference to anticipate a claim under 35 U.S.C. 102. For instance, in Apple Computer, Inc. v. Articulate Systems, Inc., 57 USPQ2d 1057, 1061

-4-

(Fed. Cir 2000), the Court explained that: "Anticipation under 35 U.S.C. 102 requires the disclosure in a single piece of prior art of each and every limitation of a claimed invention." "Substantial identity" or "equivalency" is not sufficient. RCA Corp. V. Applied Digital Data Sys., Inc., 221 USPQ 385 (Fed. Cir. 1984).
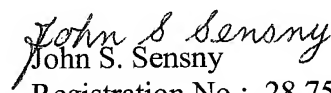
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III. Conclusion

There are, thus, important differences between Claims 1, 6 and 11 and Ballantyne, et al. Accordingly, it cannot be said that Ballantyne, et al. anticipates any of these claims within the meaning of 35 U.S.C. 102. Claims 5, 10 and 15 are dependent from Claims 1, 6 and 11, respectively, and distinguish over Ballantyne, et al. therewith.

For the foregoing reasons, the rejection of Claims 1, 5, 6, 10, 11 and 15 under 35 U.S.C. 102 is not proper, and the panel is requested to ask the Examiner to withdraw this rejection. If the panel believes that a telephone conference with Applicants" Attorneys would be advantageous tot eh disposition of this case, the panel is asked to telephone the undersigned.

Respectfully submitted,

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